# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56274 Dario Jaime Gonzalez dba Dario's Tire Shop RN110294444 and RN110393667 Docket No. 2018-0832-MSW-E

Order Type:

Default Order (SOAH preliminary hearing)

Media:

**MSW** 

**Small Business:** 

Yes

Location(s) Where Violation(s) Occurred:

5003 North Farm-to-Market Road 88, Weslaco, Hidalgo County (RN110294444) (Site 1) 917 South Alamo Road, Alamo, Hidalgo County (RN110393667) (Site 2)

Type of Operation:

scrap tire storage sites and scrap tire facilities

Other Significant Matters:

Additional Pending Enforcement Actions: 2019-1085-MSW-E

Past-Due Penalties: \$9,545 (2017-0137-MSW-E)

\$12,480 (2018-0075-MSW-E)

Past-Due Fees: None Other: None Interested Third-Parties: None

**Texas Register Publication Date:** November 12, 2021

Comments Received: None

**Penalty Information** 

**Total Penalty Assessed:** \$39,250

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$39,250

**Compliance History Classifications:** 

Person/CN - Unclassified

Site/RN - N/A

Major Source: Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56274 Dario Jaime Gonzalez dba Dario's Tire Shop RN110294444 and RN110393667 Docket No. 2018-0832-MSW-E

DOCKET NO. 2016-0652-M5W-E

<u>Investigation Information</u>

Complaint Date(s): November 20, 2017 (Site 1); March 14, 2018 (Site 2)

Complaint Information: Alleged illegal collection of tires at a tire shop, tires being

cut up, and tire shop improperly operating (Site 1).

Alleged an entity was storing more than 500 tires on the

ground (Site 2).

**Date(s) of Investigation:** December 18, 2017 through January 2, 2018 (Site 1)

May 1, 2018 (Site 2)

Date(s) of NOV(s): N/A

**Date(s) of NOE(s):** March 23, 2018 (Site 1); June 29, 2018 (Site 2)

#### **Violation Information**

#### 1. Site 1:

a. Failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers [Tex. Health & Safety Code § 361.112(a) and 30 Tex. Admin. Code § 328.60(a)]. Specifically, approximately 14,488 used or scrap tires were observed on the ground.

#### 2. Site 2:

- a. Failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility [Tex. Health & Safety Code § 361.112(a) and 30 Tex. Admin. Code § 328.56(a)(1)]. Specifically, approximately 1,540 used or scrap tires were observed on the ground.
- b. Failed to obtain a scrap tire registration for the facility prior to processing tires onsite [30 Tex. ADMIN. CODE § 328.63(c)].
- c. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks [30 Tex. Admin. Code § 328.56(d)(4)].
- d. Failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility [30 Tex. ADMIN. CODE § 328.58(a)]. Specifically, Respondent did not complete information pertaining to the number of tires removed, generator registration number, or the destination of all used or scrap tires on their scrap tire manifests.

# EXECUTIVE SUMMARY - ENFORCEMENT MATTER - CASE NO. 56274 Dario Jaime Gonzalez dba Dario's Tire Shop RN110294444 and RN110393667 Docket No. 2018-0832-MSW-E

#### **Corrective Actions/Technical Requirements**

#### **Corrective Action(s) Completed:**

None

#### **Technical Requirements:**

- 1. Site 1:
  - a. Immediately cease storage, processing, or disposal of any additional MSW at the facility until such time as proper registration is obtained.
  - b. Within 30 days:
    - i. Obtain a scrap tire storage registration for the facility; or
    - ii. In lieu of Technical Requirement No. 1.b.i. reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers; or
    - iii. Remove all MSW from the site and dispose of it at an authorized facility.
  - c. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. and 1.b.
- 2. Site 2:
  - a. Immediately:
    - i. Cease storing, processing, or disposing of any additional MSW at the facility until such time as proper registration is obtained; and
    - ii. Establish and implement a recordkeeping system that maintains a record of each individual load of used or scrap tires or tire pieces transported from the facility.
  - b. Within 30 days:
    - i. Develop and maintain a vector control program;
    - ii. Register the facility as a generator of scrap tires;
    - iii. Obtain a scrap tire registration for the facility; or
    - iv. In lieu of Technical Requirements Nos. 2.b.ii. and 2.b.iii., reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers; or
    - v. Remove all MSW from the site and dispose of it at an authorized facility.
  - c. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 2.a. and 2.b.

#### **Litigation Information**

Date Petition(s) Filed: May 8, 2020
Date Green Card(s) Signed: May 11, 2020

Date Answer(s) Filed: November 18, 2020

**SOAH Referral Date:** April 21, 2021

**Hearing Date(s):** 

Preliminary hearing: July 15, 2021 (Defaulted)

# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 56274 Dario Jaime Gonzalez dba Dario's Tire Shop RN110294444 and RN110393667 Docket No. 2018-0832-MSW-E

#### **Contact Information**

**TCEQ Attorneys:** Megan Grace, Litigation, (512) 239-3400

Garrett Arthur, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation, (512) 239-2575

TCEQ Enforcement Coordinator: Ken Moller, Enforcement, (512) 239-6111

TCEQ Regional Contact: Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010

**Respondent Contact:** Ms. Zitalli Saray Cardiel Gonzalez, Authorized Agent for Dario Jaime

Gonzalez, 221 East Juarez Avenue, Pharr, Texas 78577

**Respondent's Attorney:** N/A

\$22,500

\$22,500

\$22,500

\$0

#### PCW 1 of 2 Penalty Calculation Worksheet (PCW) PCW Revision March 26, 2014 Policy Revision 4 (April 2014) 2-Apr-2018 Assigned Screening 12-Jun-2018 **PCW** 12-Mar-2020 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Dario Jaime Gonzalez dba Dario's Tire Shop Reg. Ent. Ref. No. RN110294444 Facility/Site Region 15-Harlingen Major/Minor Source Major **CASE INFORMATION** No. of Violations 1 Enf./Case ID No. 56274 Docket No. 2018-0832-MSW-E Order Type 1660 Media Program(s) Municipal Solid Waste Government/Non-Profit No **Multi-Media** Waste Tires Enf. Coordinator Ken Moller EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Penalty Calculation Section **TOTAL BASE PENALTY (Sum of violation base penalties)** \$22,500 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Subtotals 2, 3, & 7 **Compliance History** 0.0% Adjustment \$0 No adjustment for compliance history. Notes Culpability No 0.0% Enhancement Subtotal 4 \$0 The Respondent does not meet the culpability criteria. Notes **Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0 Economic Benefit** 0.0% Enhancement\* Subtotal 6 **\$0** Total EB Amounts \*Capped at the Total EB \$ Amount \$2,605 Estimated Cost of Compliance \$20,100 **SUM OF SUBTOTALS 1-7** \$22,500 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0 Reduces or enhances the Final Subtotal by the indicated percentage.

Final Penalty Amount

Final Assessed Penalty

Adjustment

Reduction

0.0%

Deferral not offered for non-expedited settlement.

Notes

Notes

**PAYABLE PENALTY** 

**DEFERRAL** 

STATUTORY LIMIT ADJUSTMENT

Reduces the Final Assessed Penalty by the indicated percentage

Screening Date 12-Jun-2018

**Docket No.** 2018-0832-MSW-E

**PCW** 

Policy Revision 4 (April 2014) PCW Revision March 26, 2014

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop

**Case ID No.** 56274

Reg. Ent. Reference No. RN110294444 Media [Statute] Municipal Solid Waste Enf. Coordinator Ken Moller

ompliance Hist	Compliance History Worksheet ory Site Enhancement (Subtotal 2)			
Component	Number of	Number	Adjust.	
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%	
	Other written NOVs	0	0%	
	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%	
Judgments and Consent	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)		0%	
Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%	
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%	
Emissions	Chronic excessive emissions events (number of events)	0	0%	
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)			
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%	
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
Other	Participation in a voluntary pollution reduction program	No	0%	
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
	Adjustment Per	centage (Sul	btotal 2)	
Repeat Violator	(Subtotal 3)			
N/A	Adjustment Per	centage (Sul	btotal 3)	
Compliance Hist	ory Person Classification (Subtotal 7)			
Unclass	ified Adjustment Per	centage (Sul	btotal 7)	
Compliance Hist	ory Summary			
Compliance History Notes	No adjustment for compliance history.			
nal Complian	Total Compliance History Adjustment Percentage (	Subtotals 2,	_ 3, & 7) [	
nai compilance	History Adjustment Final Adjustment Percent			

	Scree	ning Date	12-Jun-2018		Docke	t No. 2018-083	2-MSW-E		PCW
	Re	espondent	Dario Jaime Go	nzalez dba Dar	io's Tire Shop			Policy F	Revision 4 (April 2014)
	Ca	se ID No.	56274					PCW Re	vision March 26, 2014
Reg.	Ent. Refe	rence No.	RN110294444						
	Media	[Statute]	Municipal Solid	Waste					
	Enf. Co	ordinator	Ken Moller						
	Violat	ion Number	1						
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	'	Rule Cite(S)	30 Tex. Autiliii	i. Code 99 326.0	361.112 §		eaith & Salety (	code	
					9 501.112	(u)			
						egistration for the			
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				used or scrap	tires were obs	erved on the grou	ina.		
							Base Per	alty	\$25,000
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			-	Harm					
		Release	Major	Moderate	Minor				
OR		Actual				_			
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									\$3,750
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Violativ	OII EVEILES	•							
		Number of V	iolation Events	6		176 Number o	f violation days		
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			daily						
			weekly						
			monthly	Х					
			quarterly			Viola	ation Base Per	nalty	\$22,500
			semiannual						
			annual						
			single event						
	<b>-</b>								
		Six monthly	events are reco	ommended from	the Decembe	r 18, 2017 investi	gation date to t	the	
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Good F	aith Effo	rts to Com	nlv	0.0%			D o d	ction	\$0
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			Extraordinary	10.0.0.102/1101	, to LDI KF	, _ stateene oner			
			Ordinary						
			-						
			N/A	X					
			Nists -	The Responde	ent does not m	eet the good faith	criteria		
			Notes		for this vi				
							Violation Sub	total	\$22,500
							violation Sub	.o.ai	φ22,300
Econon	nic Benef	it (EB) for	this violation	on		Statuto	ry Limit Tes	st	
							_		
		Estimate	ed EB Amount		\$2,605	Violation F	inal Penalty 1	Γotal	\$22,500
				This violet	on Einal Acce	cood Donalty (-	dineted for !!-	nitc\	422 E00
				inis violati	on rinai ASSE	ssed Penalty (a	ujustea for IIN	mis)	\$22,500

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	E	conomic	Benefit	Wo	rksheet		
Respondent	Dario Jaime G	onzalez dba Dario	's Tire Shop				
Case ID No.		onzaicz aba banc	o the enop				
Reg. Ent. Reference No.							37 6
	Municipal Solid	d Waste				<b>Percent Interest</b>	Years of
Violation No.	1						Depreciation
						5.0	15
	Item Cost	<b>Date Required</b>	Final Date	Yrs	<b>Interest Saved</b>	Costs Saved	EB Amount
Item Description		•					
Item Description							
Dolayed Costs							
Delayed Costs Equipment		1	1	0.00	1 40	±0 I	<b>#</b> 0
Equipment Buildings				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)				0.00	\$0 \$0	\$0	\$0 \$0
Engineering/Construction				0.00	\$0	\$0	\$0 \$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
				U.UU	50	11/4	au i
Permit Costs	\$20,100	18-Dec-2017	21-Jul-2020	2.59	\$2,605	n/a	\$2,605
Permit Costs Other (as needed)	\$20,100	18-Dec-2017	21-Jul-2020				
	7=01=00			2.59	\$2,605 \$0	n/a n/a	\$2,605 \$0
Other (as needed)	Estimated cos	t to obtain a scrap	tire generator	2.59 0.00 registra	\$2,605 \$0 ation (\$100) and a	n/a n/a scrap tire storage	\$2,605 \$0 site registration
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Other (as needed)	Estimated cos	t to obtain a scrap	o tire generator ne date required	2.59 0.00 registratis	\$2,605 \$0 ation (\$100) and a	n/a n/a scrap tire storage	\$2,605 \$0 site registration
Other (as needed)  Notes for DELAYED costs	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the	\$2,605 \$0 ation (\$100) and a date of the invest of compliance	n/a n/a n scrap tire storage s igation, and the fina	\$2,605 \$0 site registration Il date is the
Other (as needed)  Notes for DELAYED costs  Avoided Costs	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the distant	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for	n/a n/a n/a a scrap tire storage sigation, and the fina	\$2,605 \$0 site registration Il date is the
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Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the date date tering 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance  item (except for \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoide \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0
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Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the did date tering 0.00 0.00 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs Other (as needed)	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the did date tering 0.00 0.00 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the did date tering 0.00 0.00 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel  Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs Other (as needed)	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the did date tering 0.00 0.00 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0 \$0 \$0 \$0
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Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs Other (as needed)	Estimated cost (\$20,000)	t to obtain a scrap for the Facility. Th	o tire generator ne date required estimate	2.59 0.00 registratis the did date tering 0.00 0.00 0.00 0.00 0.00	\$2,605 \$0 ation (\$100) and a date of the invest of compliance item (except for \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a scrap tire storage s igation, and the fina r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2,605 \$0 site registration Il date is the d costs) \$0 \$0 \$0 \$0 \$0

\$16,750

\$16,750

\$16,750

\$0

#### PCW 2 of 2 Penalty Calculation Worksheet (PCW) PCW Revision March 26, 2014 Policy Revision 4 (April 2014) 9-Jul-2018 Assigned Screening 17-Jul-2018 **PCW** 24-Oct-2019 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Dario Jaime Gonzalez dba Dario's Tire Shop Reg. Ent. Ref. No. RN110393667 Facility/Site Region 15-Harlingen Major/Minor Source Major **CASE INFORMATION** No. of Violations 3 Enf./Case ID No. 56274 Docket No. 2018-0832-MSW-E Order Type 1660 Media Program(s) Municipal Solid Waste Government/Non-Profit No Multi-Media Enf. Coordinator Ken Moller EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Penalty Calculation Section **TOTAL BASE PENALTY (Sum of violation base penalties)** \$16,750 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Subtotals 2, 3, & 7 **Compliance History** 0.0% Adjustment \$0 No adjustment for compliance history. Notes Culpability No 0.0% Enhancement Subtotal 4 \$0 The Respondent does not meet the culpability criteria. Notes **Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0 Economic Benefit** 0.0% Enhancement\* Subtotal 6 **\$0** Total EB Amounts \*Capped at the Total EB \$ Amount \$2,303 Estimated Cost of Compliance #NAME? **SUM OF SUBTOTALS 1-7** \$16,750 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0 Reduces or enhances the Final Subtotal by the indicated percentage. Notes

STATUTORY LIMIT ADJUSTMENT

Notes

**PAYABLE PENALTY** 

Reduces the Final Assessed Penalty by the indicated percentage

**DEFERRAL** 

Final Penalty Amount

Final Assessed Penalty

Adjustment

Reduction

0.0%

Deferral not offered for non-expedited settlement.

Screening Date 17-Jul-2018

**Docket No.** 2018-0832-MSW-E

**PCW** 

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Respondent Dario Jaime Gonzalez dba Dario's Tire Shop

**Case ID No.** 56274

Reg. Ent. Reference No. RN110393667

Media [Statute] Municipal Solid Waste Enf. Coordinator Ken Moller

mpliance Histo Component	ory Site Enhancement (Subtotal 2)		
	Number of	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
		0	0%
Orders	without a denial of liability, or default orders of this state or the federal	0	0%
Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)		0	0%
Decrees	final court judgments or consent decrees without a denial of liability, of this state	0	0%
Convictions	counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature,	0	0%
, tadies	Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations	0	0%
	Environmental management systems in place for one year or more	No	0%
Other		No	0%
o circi	Participation in a voluntary pollution reduction program	No	0%
	, , ,	No	0%
peat Violator	•	centage (Sub	ototal 2) 0%
N/A	Adjustment Per	centage (Sub	ototal 3) 0%
mpliance Histo	ry Person Classification (Subtotal 7)		
Unclass	Adjustment Perc	centage (Sub	ototal 7) 0%
mpliance Histo	ory Summary		
Compliance History Notes	No adjustment for compliance history.		
		Subtotals 2,	<b>3, &amp; 7)</b> 0%
l Compliance			at <b>100%</b> 0%
	Orders  Judgments and Consent Decrees  Convictions  Emissions  Audits  Other  peat Violator (  N/A  mpliance Histor  Unclassi  mpliance History  Notes	without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)  Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts)  Emissions  Convictions  Any criminal convictions of this state or the federal government (number of counts)  Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Environmental management systems in place for one year or more  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Permopetat Violator (Subtotal 3)  N/A  Adjustment Permopetat Violator (Subtotal 3)  N/A  No adjustment for compliance history.  No adjustment for compliance history.  No adjustment Percentage (Subtotal Compliance History Adjustment Percentage (Subtotal Compliance History Adjustment	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)  Orders  Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission of liability of this state or the federal government (number of judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)  Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  Convictions  Any criminal convictions of this state or the federal government (number of counts)  Emissions  Chronic excessive emissions events (number of events)  Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)  Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)  Tother  Other  Other  Environmental management systems in place for one year or more  Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  Participation in a voluntary pollution reduction program  Early compliance with, or offer of a product that meets future state or federal government environmental requirements  Adjustment Percentage (Submissioner Majustment Percentage (Subtotals 2, Total Compliance History Adjustment Percentage (Subtotals 2, Total Compliance History Adjustment

	Scre	ening Date	17-Jul-2018		Docke	et No. 2018-0832-MSW-E		PCW
	F	Respondent	Dario Jaime Go	onzalez dba Dar	io's Tire Shop		Policy	Revision 4 (April 2014)
		Case ID No.					PCW Re	evision March 26, 2014
Reg.		erence No.						
			Municipal Solid	Waste				
		Coordinator		n				
	Viola	ation Number	1					
		Rule Cite(s)	30 Tex. Admir	n. Code §§ 328.	56(a)(1) and 3 Code 361.1	328.63(c) and Tex. Health and 12(a)	d Safety	
	Violatio	n Description	tires at the Fa	cility. Also, faile prior to processi	ed to obtain a ng tires onsite	tration prior to storing more t scrap tire storage site registr e. Specifically, approximately served on the ground.	ation for	
						Base	Penalty	\$25,000
>> En	vironme	ntal, Proper	ty and Hum	an Health M	latrix			
		<u> </u>	_	Harm				
		Release	Major	Moderate	Minor			
OR		Actual						
		Potential				Percent 0.0%		
>>Dro	aramma	tic Matrix						
>>Pro	gramma	tic Matrix Falsification	Major	Moderate	Minor			
		Taisincation	Х	Moderate	Millor	Percent 15.0%		
			^			13.070		
	Matrix Notes		100	0% of the rule r	equirement w	as not met.		
						Adjustment	\$21,250	
							Г	\$3,750
							L	ψ3/130
Violati	on Event	ts						
		Number of V	iolation Events	3		77 Number of violation d	ays	
			daily					
			weekly					
			monthly quarterly	X		Violation Base	Denalty	\$11,250
			semiannual			Violation base	Penaity_	\$11,230
			annual					
			single event					
			J					
		Three monthly	, events are rec	commended from	m the May 1 3	2018 investigation date to the	July 17	
		Timee moneing	cvents are rec		creening date.		July 17,	
Good F	Saith Eff	orts to Com	nlv	0.0%		D	oduction	\$0
good I	aidi Eil	or to com			IOE/NOV to EDPRE	P/Settlement Offer	eduction	φU
			Extraordinary		,			
			Ordinary					
			N/A	Х				
			,					
			Notes	The Responde	for this vi	eet the good faith criteria olation.		
						Violation S	Subtotal	\$11,250
Econo	mic Bene	efit (EB) for	this violation	on		Statutory Limit	Гest	
		Estimate	ed EB Amount		\$2,236	Violation Final Penal	ty Total	\$11,250
				This violati	on Final Acce	essed Penalty (adjusted for	· limite\	\$11,250
				iiis viviati	on i mai Asst	Joseph Femalty (aujusted 10)		φ11,2JU

	E	conomic	Benefit	Wo	rksheet		
Respondent	Dario Jaime G	onzalez dba Dario	's Tire Shop				
Case ID No.							
Reg. Ent. Reference No.							
							Years of
	Municipal Solid	i waste				<b>Percent Interest</b>	Depreciation
Violation No.	1						Depreciation
						5.0	15
	Item Cost	<b>Date Required</b>	Final Date	Yrs	<b>Interest Saved</b>	Costs Saved	<b>EB Amount</b>
Item Description							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	±20.100	1.142010	21 1 2020	0.00	\$0	n/a	\$0
Permit Costs Other (as needed)	\$20,100	1-May-2018	21-Jul-2020	2.22 0.00	\$2,236	n/a	\$2,236
Other (as needed)				0.00	\$0	n/a	\$0
	Estimated cost	t to obtain a scrap	tire generator	registra	ation (\$100) and a	a scrap tire storage :	site registration
Notes for DELAYED costs	(\$20,000) for	r the Facility. The	date required i	s the in	vestigation date, a	and the final date is	the estimated
			dat	e of co	mpliance.		
Aveided Ceete	ANNUL	VI TZE avoided o	osta hoforo or	toring	itam (avcent for	r one-time avoide	d socts)
Avoided Costs Disposal	ANNUA	ALIZE avoided Co	osts belole el	0.00	\$0		\$0
Personnel				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Inspection/Reporting/Sampling				0.00	\$0 \$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
		·		•			
Notes for AVOIDED costs							
Annual Cost of Compliance		¢20 100			TOTAL		\$2,236
Approx. Cost of Compliance		\$20,100			IUIAL		\$2,236

	Screening Date		PCW
	Respondent	Dario Jaime Gonzalez dba Dario's Tire Shop	Policy Revision 4 (April 2014)
	Case ID No.		PCW Revision March 26, 2014
Reg.	Ent. Reference No.		
		Municipal Solid Waste	
	Enf. Coordinator		
	Violation Number		
	Rule Cite(s)	30 Tex. Admin. Code § 328.56(d)(4)	
		Failed to monitor tires stored outside for vectors, and utilize appropriate vect	or
	Violation Description	control measures at least once every two weeks.	
		·	
		Base Pen	<b>alty</b> \$25,000
>> En:	vironmental Drone	rty and Human Health Matrix	
LII	vironinientai, Prope	Harm	
	Release	Major Moderate Minor	
OR	Actual		
	Potential	x Percent 7.0%	
>>Pro	grammatic Matrix		
	Falsification	Major Moderate Minor	
		Percent 0.0%	
		h or the environment will or could be exposed to insignificant amounts of polluta	
	Notes that would no	ot exceed levels that are protective of human health or environmental receptors are result of the violation.	as a
		result of the violation.	
		Adjustment \$23	3,250
		Aujustinent	7250
			\$1,750
Violati	on Events		
	Number of	/iolation Events 1	
	Number of	/iolation Events 1 Number of violation days	
		daily	
		weekly	
		monthly	
		quarterly Violation Base Pen	nalty \$1,750
		semiannual	
		annual	
		single event x	
		Over standard and the constraint of	
		One single event is recommended.	
Good F	aith Efforts to Com	ply 0.0% Reduc	ction \$0
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer	
		Extraordinary	
		Ordinary	
		N/A x	
		The Decree deat does not meet the good frith soite in few	
		Notes The Respondent does not meet the good faith criteria for this violation.	
		this violation.	
		Violation Subt	total \$1,750
Econoi	mic Benefit (EB) for	this violation Statutory Limit Tes	t
	Estimat	ed EB Amount \$11 Violation Final Penalty T	<b>fotal</b> \$1,750
		This violation Final Assessed Penalty (adjusted for lin	nits) \$1,750

		conomic	Donofit	14/0	ulchoot		
				VVO	rksneet		
		onzalez dba Dario	's Tire Shop				
Case ID No.	56274						
Reg. Ent. Reference No.	RN110393667	i					
Media	Municipal Soli	d Waste				Dawasuk Tukawask	Years of
Violation No.	2					Percent Interest	Depreciation
21012010111101						5.0	15
	Item Cost	Date Required	Final Date	Yrs	<b>Interest Saved</b>	Costs Saved	EB Amount
Item Description							
Delayed Costs				<b>-</b>			
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	+100	4.14 2010	24 1 1 2020	0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-May-2018	21-Jul-2020	2.22	\$11	n/a	\$11
Notes for DELAYED costs		date, an	d the final date	is the	estimated date of	·	J
Avoided Costs	ANNU	ALIZE avoided co	osts before er			r one-time avoide	
Disposal -				0.00	\$0	\$0	\$0
Personnel				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Inspection/Reporting/Sampling							
Supplies/Equipment				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Financial Assurance				0.00	\$0 \$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs				0.00	\$0 \$0	\$0	\$0 \$0
Other (as needed)		<u> </u>		0.00	30	<b>3</b> 0	<b>⊅</b> U
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$100			TOTAL		\$11

	Screening Date	17-Jul-2018		Docket No	<b>0.</b> 2018-0832-MSW-E		PCW
	Respondent	Dario Jaime Go	nzalez dba Dario's	Tire Shop		Policy Revi	sion 4 (April 2014)
	Case ID No.	56274				PCW Revisi	on March 26, 2014
Reg.	Ent. Reference No.	RN110393667					
	Media [Statute]	Municipal Solid	Waste				
	Enf. Coordinator	Ken Moller	_				
	<b>Violation Number</b>	3					
	Rule Cite(s)		30 Tev	Admin. Code § 32	28 58(a)		
			30 TCX. 1	Admin. Code g 52	20.30(a)		
		niococ trancno			ad of used or scrap tires or		
	Violation Description				the Respondent did not con emoved, generator registrat		
					res on their scrap tire manif		
		, , , , ,					
					Base Pe	enalty	\$25,000
>> En	vironmental, Proper	rty and Hum	an Health Mat	rix			
<b>-</b>		cy and man	Harm				
	Release	Major	Moderate M	linor			
OR	Actual						
	Potential				Percent 0.0%		
D	avammatic Matrix						
>>Pro	ogrammatic Matrix Falsification	Major	Modorato M	linor			
	Faisilication	Major	Moderate M	linor	Percent 15.0%		
		Х			15.0%		
	Matrix	10	00% of the rule req	uirement was not	t mat		
	Notes	10	0 /0 of the rule req	un ement was not	t met.		
				1	Adjustment \$3	21,250	
					7		
							\$3,750
\/:_ _+:	ian Frants						
violati	ion Events						
	Number of \	/iolation Events	1	77	Number of violation day	rs	
		daily					
		weekly					
		monthly					
		quarterly	X		Violation Base Po	enalty	\$3,750
		semiannual					
		annual					
		single event					
	One quarterly	event is recomm	nended from the M	lay 1, 2018 inves	tigation date to the July 17	<mark>, 2018</mark>	
			screen	ing date.			
			0.0%		Pod	luction	\$0
Good I	Faith Efforts to Com	ply	0.0 70		Reu	idetion	
Good I	Faith Efforts to Com	В		NOV to EDPRP/Settle		luction	·
Good I	Faith Efforts to Com			NOV to EDPRP/Settle		idetion _	
Good I	Faith Efforts to Com	В		NOV to EDPRP/Settle		idection	
Good I	Faith Efforts to Com	Extraordinary		NOV to EDPRP/Settle			·
Good I	Faith Efforts to Com	Extraordinary Ordinary	sefore NOE/NOV NOE/		ement Offer		
Good I	Faith Efforts to Com	Extraordinary Ordinary	sefore NOE/NOV NOE/	loes not meet the	e good faith criteria for	idection	
Good I	Faith Efforts to Com	Extraordinary Ordinary N/A	sefore NOE/NOV NOE/		e good faith criteria for	idection _	
Good I	Faith Efforts to Com	Extraordinary Ordinary N/A	sefore NOE/NOV NOE/	loes not meet the	e good faith criteria for		
Good I	Faith Efforts to Com	Extraordinary Ordinary N/A	sefore NOE/NOV NOE/	loes not meet the	e good faith criteria for		\$3,750
	Faith Efforts to Com	Extraordinary Ordinary N/A Notes	sefore NOE/NOV NOE/  X  The Respondent d	loes not meet the	e good faith criteria for	btotal	
	mic Benefit (EB) for	Extraordinary Ordinary N/A Notes	The Respondent d	loes not meet the this violation.	good faith criteria for Violation Su Statutory Limit Te	btotal est	\$3,750
	mic Benefit (EB) for	Extraordinary Ordinary N/A Notes	The Respondent d	loes not meet the	e good faith criteria for  Violation Su	btotal est	

	_	-	<b>.</b>				
	E	conomic	Benefit	Wo	rksheet		
Respondent	Dario Jaime G	onzalez dba Dario	's Tire Shop				
Case ID No.	56274						
Reg. Ent. Reference No.	RN110393667	•					
<u>=</u>	Municipal Soli					Percent Interest	Years of
Violation No.	3					r creent interest	Depreciation
						5.0	15
	Item Cost	<b>Date Required</b>	Final Date	Yrs	<b>Interest Saved</b>	Costs Saved	<b>EB Amount</b>
Item Description							
Delayed Costs				_			
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	1-May-2018	21-Jul-2020	2.22	\$56	n/a	\$56
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs		fi	inal date is the	estimat	ed date of complia		·
Avoided Costs	ANNU	ALIZE avoided c	osts before en			r one-time avoide	
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$500			TOTAL		\$56

Rating: ----

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



### Compliance History Report

Compliance History Report for CN603871096, RN110393667, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, CN603871096, Gonzalez, Dario Jaime Classification: UNCLASSIFIED

or Owner/Operator:

Regulated Entity: RN110393667, Dario's Tire Shop Classification: NOT APPLICABLE Rating: N/A

Complexity Points: N/A Repeat Violator: N/A

CH Group: 14 - Other

**Location:** 917 South Alamo Road, Alamo, Texas 78516-9312, Hidalgo County

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

TIRES REGISTRATION 140061 MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER

R15110393667

Compliance History Period: September 01, 2012 to August 31, 2017 Rating Year: 2017 Rating Date: 09/01/2017

Date Compliance History Report Prepared: July 17, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 17, 2013 to July 17, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Ken Moller **Phone:** (512) 239-6111

#### Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five-year compliance period? NO

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

#### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

**B.** Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/Δ

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

**Sites Outside of Texas:** 

N/A

#### **Component Appendices**

Appendix A

All NOVs Issued During Component Period 7/17/2013 and 7/17/2018

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period July 17, 2013 and July 17, 2018

N/A

For Informational Purposes Only

Rating: ----

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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



### Compliance History Report

Compliance History Report for CN603871096, RN110294444, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, CN603871096, Gonzalez, Dario Jaime Classification: UNCLASSIFIED

or Owner/Operator:

Regulated Entity: RN110294444, Dario's Tire Shop Classification: NOT APPLICABLE Rating: N/A

Complexity Points: N/A Repeat Violator: N/A

CH Group: 14 - Other

**Location:** 5003 North Farm-to-Market Road 88, Weslaco, Texas 78599-3281, Hidalgo County

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER

R15110294444

Compliance History Period: September 01, 2012 to August 31, 2017 Rating Year: 2017 Rating Date: 09/01/2017

**Date Compliance History Report Prepared:** June 04, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 04, 2013 to June 04, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Ken Moller **Phone:** (512) 239-6111

#### Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five-year compliance period? NO

2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

#### Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

**B.** Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

**Sites Outside of Texas:** 

N/A

#### **Component Appendices**

Appendix A

All NOVs Issued During Component Period 6/4/2013 and 6/4/2018

N/A For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period June 04, 2013 and June 04, 2018

N/A For Informational Purposes Only

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



§	BEFORE THE
§	
§	TEXAS COMMISSION ON
§	TEAAS COMMISSION ON
§	
§	ENVIRONMENTAL QUALITY
	9 89 89 89 89

#### DEFAULT ORDER DOCKET NO. 2018-0832-MSW-E

On \_\_\_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to Tex. WATER CODE ch. 7, Tex. Health & Safety Code ch. 361 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Dario Jaime Gonzalez dba Dario's Tire Shop ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

- 1. Respondent operates Sites located at the following locations:
  - a. Dario's Tire Shop, 5003 North Farm-to-Market Road 88, Weslaco, Hidalgo County, Texas ("Site 1"); and
  - b. Dario's Tire Shop, 917 South Alamo Road, Alamo, Hidalgo County, Texas ("Site 2").

The Sites contain and/or involve the management of municipal solid waste ("MSW"), including scrap tires, as defined in Tex. Health & Safety Code ch. 361.

- 2. During an investigation of Site 1 conducted December 18, 2017 through January 2, 2018, an investigator documented that Respondent failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 14,488 used or scrap tires were observed on the ground.
- 3. During an investigation of Site 2 conducted on May 1, 2018, an investigator documented that Respondent:
  - a. Failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility. Specifically, approximately 1,540 used or scrap tires were observed on the ground;
  - b. Failed to obtain a scrap tire registration for the facility prior to processing tires onsite;
  - c. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks; and
  - d. Failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility. Specifically, Respondent did not complete information pertaining to the number of tires removed, generator registration number, or the destination of all used or scrap tires on their scrap tire manifests.

- 4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dario Jaime Gonzalez dba Dario's Tire Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on May 8, 2020.
- 5. Respondent's answer was filed on November 18, 2020, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 21, 2021.
- 6. On June 15, 2021, the TCEQ Chief Clerk mailed notice of the July 15, 2021, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
- 7. On July 15, 2021, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
- 8. On August 25, 2021, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2 so that TCEQ may dispose of this case on a default basis.

#### **CONCLUSIONS OF LAW**

- 1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to Tex. Health & Safety Code ch. 361 and the rules of the TCEQ.
- 2. As evidenced by Finding of Fact No. 2, Respondent failed to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of Tex. Health & Safety Code § 361.112(a) and 30 Tex. Admin. Code § 328.60(a).
- 3. As evidenced by Finding of Fact No. 3.a., Respondent failed to obtain a scrap tire generator registration prior to storing more than 500 tires at the facility, in violation of Tex. Health & Safety Code § 361.112(a) and 30 Tex. Admin. Code § 328.56(a)(1).
- 4. As evidenced by Finding of Fact No. 3.b., Respondent failed to obtain a scrap tire registration for the facility prior to processing tires onsite, in violation of 30 Tex. ADMIN. CODE § 328.63(c).
- 5. As evidenced by Finding of Fact No. 3.c., Respondent failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks, in violation of 30 Tex. ADMIN. CODE § 328.56(d)(4).
- 6. As evidenced by Finding of Fact No. 3.d., Respondent failed to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility, in violation of 30 Tex. ADMIN. CODE § 328.58(a).
- 7. As evidenced by Finding of Fact No. 5, an Answer was filed requesting a hearing as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105, and the matter was referred to SOAH pursuant to 1 Tex. Admin. Code §§ 155.53(b) and 155.101(b) and 30 Tex. Admin. Code § 70.109.
- 8. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with Tex. Gov't Code §§ 2001.051(1) and 2001.052, Tex. Water Code § 7.058, 1 Tex. Admin. Code §§ 155.105(a) and (c)(3), 155.401 and 155.501, and 30 Tex. Admin. Code §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.

- 9. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to Tex. Gov't Code § 2001.056(4) and 1 Tex. Admin. Code § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106(b).
- 10. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- 11. An administrative penalty in the amount of thirty-nine thousand two hundred fifty dollars (\$39,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. WATER CODE § 7.053.
- 12. Tex. Water Code §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### ORDERING PROVISIONS

#### NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

- 1. Respondent is assessed an administrative penalty in the amount of thirty-nine thousand two hundred fifty dollars (\$39,250.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
- 2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Dario Jaime Gonzalez dba Dario's Tire Shop; Docket No. 2018-0832-MSW-E" to:

Financial Administration Division, Revenue Operations Section Texas Commission on Environmental Quality Attention: Cashier's Office, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

- 3. Respondent shall undertake the following technical requirements at Site 1:
  - a. Immediately upon the effective date of this Order, cease storage, processing, or disposal of any additional MSW at the facility until such time as proper registration is obtained.
  - b. Within 30 days after the effective date of this Order:
    - i. Obtain a scrap tire storage site registration for the facility, in accordance with 30 Tex. ADMIN. CODE § 328.60.
    - ii. In lieu of Ordering Provision No. 3b.i. reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 Tex. ADMIN. CODE § 328.60; or
    - iii. Remove all MSW from Site 1 and dispose of it at an authorized facility.
  - c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 5 below, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.

- 4. Respondent shall undertake the following technical requirements at Site 2:
  - a. Immediately upon the effective date of this Order:
    - i. Cease storing, processing, or disposing of any additional MSW at the facility until such time as proper registration is obtained; and
    - ii. Establish and implement a recordkeeping system that maintains a record of each individual load of used or scrap tires or tire pieces transported from the facility, in accordance with 30 Tex. ADMIN. CODE § 328.58(a).
  - b. Within 30 days after the effective date of this Order:
    - i. Develop and maintain a vector control program, in accordance with 30 Tex. ADMIN. CODE § 328.56;
    - ii. Register the facility as a generator of scrap tires, in accordance with 30 Tex. ADMIN. CODE § 328.56;
    - iii. Obtain a scrap tire registration for the facility, in accordance with 30 Tex. ADMIN. CODE § 328.63; or
    - iv. In lieu of Ordering Provision Nos. 4.b.ii. and 4.b.iii., reduce the number of tires being stored to less than 500 on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 Tex. ADMIN. CODE § 328.63; or
    - v. Remove all MSW from Site 2 and dispose of it at an authorized facility.
  - c. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 5 below to demonstrate compliance with Ordering Provision Nos. 4.a. and 4.b.
- 5. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Order Compliance Team Texas Commission on Environmental Quality Enforcement Division, MC 149A P.O. Box 13087 Austin, Texas 78711-3087

and:

Dario Jaime Gonzalez dba Dario's Tire Shop Docket No. 2018-0832-MSW-E Page 5

> Waste Section Manager Harlingen Regional Office Texas Commission on Environmental Quality 1804 West Jefferson Avenue Harlingen, Texas 78550-5247

- 6. All relief not expressly granted in this Order is denied.
- 7. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site 1 and Site 2 operations referenced in this Order.
- 8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
- 9. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 10. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
- 11. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
- 12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 13. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. Admin. Code § 70.106(d) and Tex. Gov't Code § 2001.144.

Dario Jaime Gonzalez dba Dario's Tire Shop Docket No. 2018-0832-MSW-E Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONME	NTAL QUALITY
For the Commission	Date

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



#### UNSWORN DECLARATION OF ROSLYN DUBBERSTEIN

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dario Jaime Gonzalez dba Dario's Tire Shop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 8, 2020.

Respondent's answer was filed on November 18, 2020, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 21, 2021. On June 15, 2021, the TCEQ Chief Clerk mailed notice of the July 15, 2021 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on July 15, 2021. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 Tex. ADMIN. Code § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with Tex. Gov't Code § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 2, issued on August 25, 2021, so that TCEQ may dispose of this case on a default basis."

"My name is Roslyn M. Dubberstein, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County, State of Texas, on the 19th day of October, 2021

Declarant